

PREVAILED

Roll Call No. \_\_\_\_\_

FAILED

Ayes \_\_\_\_\_

WITHDRAWN

Noes \_\_\_\_\_

RULED OUT OF ORDER

## HOUSE MOTION \_\_\_\_\_

MR. SPEAKER:

I move that Engrossed Senate Bill 285 be amended to read as follows:

- 1 Page 19, between lines 34 and 35, begin a new paragraph and insert:
- 2 "SECTION 10. IC 6-1.1-24-2, AS AMENDED BY P.L.146-2008,
- 3 SECTION 258, IS AMENDED TO READ AS FOLLOWS
- 4 [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) In addition to the
- 5 delinquency list required under section 1 of this chapter, each county
- 6 auditor shall prepare a notice. The notice shall contain the following:
- 7 (1) A list of tracts or real property eligible for sale under this
- 8 chapter.
- 9 (2) A statement that the tracts or real property included in the list
- 10 will be sold at public auction to the highest bidder, subject to the
- 11 right of redemption.
- 12 (3) A statement that the tracts or real property will not be sold for
- 13 an amount which is less than the sum of:
- 14 (A) the delinquent taxes and special assessments on each tract
- 15 or item of real property;
- 16 (B) the taxes and special assessments on each tract or item of
- 17 real property that are due and payable in the year of the sale,
- 18 whether or not they are delinquent;
- 19 (C) all penalties due on the delinquencies;
- 20 (D) an amount prescribed by the county auditor that equals the
- 21 sum of:
- 22 (i) the greater of twenty-five dollars (\$25) or postage and
- 23 publication costs; and
- 24 (ii) any other actual costs incurred by the county that are

- 1 directly attributable to the tax sale; and
- 2 (E) any unpaid costs due under subsection (b) from a prior tax
- 3 sale.
- 4 (4) A statement that a person redeeming each tract or item of real
- 5 property after the sale must pay:
  - 6 (A) one hundred ten percent (110%) of the amount of the
  - 7 minimum bid for which the tract or item of real property was
  - 8 offered at the time of sale if the tract or item of real property
  - 9 is redeemed not more than six (6) months after the date of
  - 10 sale;
  - 11 (B) one hundred fifteen percent (115%) of the amount of the
  - 12 minimum bid for which the tract or item of real property was
  - 13 offered at the time of sale if the tract or item of real property
  - 14 is redeemed more than six (6) months after the date of sale;
  - 15 (C) the amount by which the purchase price exceeds the
  - 16 minimum bid on the tract or item of real property plus ten
  - 17 percent (10%) per annum on the amount by which the
  - 18 purchase price exceeds the minimum bid; and
  - 19 (D) all taxes and special assessments on the tract or item of
  - 20 real property paid by the purchaser after the tax sale plus
  - 21 interest at the rate of ten percent (10%) per annum on the
  - 22 amount of taxes and special assessments paid by the purchaser
  - 23 on the redeemed property.
- 24 (5) A statement for informational purposes only, of the location
- 25 of each tract or item of real property by key number, if any, and
- 26 street address, if any, or a common description of the property
- 27 other than a legal description. The township assessor, or the
- 28 county assessor if there is no township assessor for the township,
- 29 upon written request from the county auditor, shall provide the
- 30 information to be in the notice required by this subsection. A
- 31 misstatement in the key number or street address does not
- 32 invalidate an otherwise valid sale.
- 33 (6) A statement that the county does not warrant the accuracy of
- 34 the street address or common description of the property.
- 35 (7) A statement indicating:
  - 36 (A) the name of the owner of each tract or item of real
  - 37 property with a single owner; or
  - 38 (B) the name of at least one (1) of the owners of each tract or
  - 39 item of real property with multiple owners.
- 40 (8) A statement of the procedure to be followed for obtaining or
- 41 objecting to a judgment and order of sale, that must include the
- 42 following:
  - 43 (A) A statement:
    - 44 (i) that the county auditor and county treasurer will apply on
    - 45 or after a date designated in the notice for a court judgment
    - 46 against the tracts or real property for an amount that is not

less than the amount set under subdivision (3), and for an order to sell the tracts or real property at public auction to the highest bidder, subject to the right of redemption; and (ii) indicating the date when the period of redemption specified in IC 6-1.1-25-4 will expire.

(B) A statement that any defense to the application for judgment must be:

(i) filed with the court; and

(ii) served on the county auditor and the county treasurer; before the date designated as the earliest date on which the application for judgment may be filed.

(C) A statement that the county auditor and the county treasurer are entitled to receive all pleadings, motions, petitions, and other filings related to the defense to the application for judgment.

(D) A statement that the court will set a date for a hearing at least seven (7) days before the advertised date and that the court will determine any defenses to the application for judgment at the hearing.

(9) A statement that the sale will be conducted at a place designated in the notice and that the sale will continue until all tracts and real property have been offered for sale.

(10) A statement that the sale will take place at the times and dates designated in the notice. Whenever the public auction is to be conducted as an electronic sale, the notice must include a statement indicating that the public auction will be conducted as an electronic sale and a description of the procedures that must be followed to participate in the electronic sale.

(11) A statement that a person redeeming each tract or item after the sale must pay the costs described in IC 6-1.1-25-2(e).

(12) If a county auditor and county treasurer have entered into an agreement under IC 6-1.1-25-4.7, a statement that the county auditor will perform the duties of the notification and title search under IC 6-1.1-25-4.5 and the notification and petition to the court for the tax deed under IC 6-1.1-25-4.6.

(13) A statement that, if the tract or item of real property is sold for an amount more than the minimum bid and the property is not redeemed, the owner of record of the tract or item of real property who is divested of ownership at the time the tax deed is issued may have a right to the tax sale surplus.

(14) If a determination has been made under subsection (d), a statement that tracts or items will be sold together.

**(15) With respect to a tract or an item of real property (other than real property classified as industrial property under the rules of the department of local government finance) subject to sale under this chapter after June 30, 2009, and before July**

**1, 2010, an explanation of the option for removal of the tract or item of real property from the tax sale under section 5(j) of this chapter.**

(b) If within sixty (60) days before the date of the tax sale the county incurs costs set under subsection (a)(3)(D) and those costs are not paid, the county auditor shall enter the amount of costs that remain unpaid upon the tax duplicate of the property for which the costs were set. The county treasurer shall mail notice of unpaid costs entered upon a tax duplicate under this subsection to the owner of the property identified in the tax duplicate.

(c) The amount of unpaid costs entered upon a tax duplicate under subsection (b) must be paid no later than the date upon which the next installment of real estate taxes for the property is due. Unpaid costs entered upon a tax duplicate under subsection (b) are a lien against the property described in the tax duplicate, and amounts remaining unpaid on the date the next installment of real estate taxes is due may be collected in the same manner that delinquent property taxes are collected.

(d) The county auditor and county treasurer may establish the condition that a tract or item will be sold and may be redeemed under this chapter only if the tract or item is sold or redeemed together with one (1) or more other tracts or items. Property may be sold together only if the tract or item is owned by the same person.

SECTION 11. IC 6-1.1-24-4, AS AMENDED BY P.L.89-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Not less than twenty-one (21) days before the earliest date on which the application for judgment and order for sale of real property eligible for sale may be made, the county auditor shall send a notice of the sale by certified mail, return receipt requested, to:

- (1) the owner of record of real property with a single owner; or
- (2) at least one (1) of the owners, as of the date of certification, of real property with multiple owners;

at the last address of the owner for the property as indicated in the records of the county auditor on the date that the tax sale list is certified. In addition, the county auditor shall mail a duplicate notice to the owner of record, as described in subdivisions (1) and (2), by first class mail to the owners from whom the certified mail return receipt was not signed and returned. Additionally, the county auditor may determine that mailing a first class notice to or serving a notice on the property is a reasonable step to notify the owner, if the address of the owner is not the same address as the physical location of the property. If both notices are returned due to incorrect or insufficient addresses, the county auditor shall research the county auditor records to determine a more complete or accurate address. If a more complete or accurate address is found, the county auditor shall resend the notices

to the address that is found in accordance with this section. Failure to obtain a more complete or accurate address does not invalidate an otherwise valid sale. The county auditor shall prepare the notice in the form prescribed by the state board of accounts. The notice must set forth the key number, if any, of the real property and a street address, if any, or other common description of the property other than a legal description. The notice must include the statement set forth in section 2(a)(4) of this chapter. **With respect to a tract or an item of real property (other than real property classified as industrial property under the rules of the department of local government finance) subject to sale under this chapter after June 30, 2009, and before July 1, 2010, the notice must include an explanation of the option for removal of the tract or item of real property from the tax sale under section 5(j) of this chapter.** The county auditor must present proof of this mailing to the court along with the application for judgment and order for sale. Failure by an owner to receive or accept the notice required by this section does not affect the validity of the judgment and order. The owner of real property shall notify the county auditor of the owner's correct address. The notice required under this section is considered sufficient if the notice is mailed to the address or addresses required by this section.

(b) In addition to the notice required under subsection (a) for real property on the list prepared under section 1(a)(2) or 1.5(d) of this chapter, the county auditor shall prepare and mail the notice required under section 2.2 of this chapter no later than forty-five (45) days after the county auditor receives the certified list from the county treasurer under section 1(a) of this chapter.

(c) On or before the day of sale, the county auditor shall list, on the tax sale record required by IC 6-1.1-25-8, all properties that will be offered for sale.

SECTION 12. IC 6-1.1-24-5, AS AMENDED BY P.L.89-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) When a tract or an item of real property is subject to sale under this chapter, it must be sold in compliance with this section.

(b) The sale must:

- (1) be held at the times and place stated in the notice of sale; and
- (2) not extend beyond one hundred seventy-one (171) days after the list containing the tract or item of real property is certified to the county auditor.

(c) A tract or an item of real property may not be sold under this chapter to collect:

- (1) delinquent personal property taxes; or
- (2) taxes or special assessments which are chargeable to other real property.

(d) **Subject to subsection (j)**, a tract or an item of real property may

not be sold under this chapter if all the delinquent taxes, penalties, and special assessments on the tract or an item of real property and the amount prescribed by section 2(a)(3)(D) of this chapter, reflecting the costs incurred by the county due to the sale, are paid before the time of sale.

(e) The county treasurer shall sell the tract or real property, subject to the right of redemption, to the highest bidder at public auction. However, a tract or an item of real property may not be sold for an amount which is less than the sum of:

(1) the delinquent taxes and special assessments on each tract or item of real property;

(2) the taxes and special assessments on each tract or item of real property that are due and payable in the year of the sale, regardless of whether the taxes and special assessments are delinquent;

(3) all penalties which are due on the delinquencies;

(4) the amount prescribed by section 2(a)(3)(D) of this chapter reflecting the costs incurred by the county due to the sale;

(5) any unpaid costs which are due under section 2(b) of this chapter from a prior tax sale; and

(6) other reasonable expenses of collection, including title search expenses, uniform commercial code expenses, and reasonable attorney's fees incurred by the date of the sale.

(f) For purposes of the sale, it is not necessary for the county treasurer to first attempt to collect the real property taxes or special assessments out of the personal property of the owner of the tract or real property.

(g) The county auditor shall serve as the clerk of the sale.

(h) Real property certified to the county auditor under section 1(a)(2) of this chapter must be offered for sale in a different phase of the tax sale or on a different day of the tax sale than the phase or day during which other real property is offered for sale.

(i) The public auction required under subsection (e) may be conducted by electronic means, at the option of the county treasurer. The electronic sale must comply with the other statutory requirements of this section. If an electronic sale is conducted under this subsection, the county treasurer shall provide access to the electronic sale by providing computer terminals open to the public at a designated location. A county treasurer who elects to conduct an electronic sale may receive electronic payments and establish rules necessary to secure the payments in a timely fashion. The county treasurer may not add an additional cost of sale charge to a parcel for the purpose of conducting the electronic sale.

**(j) With respect to a tract or an item of real property (other than real property classified as industrial property under the rules of the department of local government finance) subject to sale**

under this chapter after June 30, 2009, and before July 1, 2010, if all the delinquent taxes and special assessments on the tract or item of real property are paid before the time of sale:

(1) the tract or item of real property may not be sold in the sale under this chapter; and

(2) the obligation under subsection (d) for payment of the following that would otherwise apply is canceled:

(A) Penalties that accrued as the result of the delinquency in the payment of taxes or special assessments.

(B) The amounts described in section 2(a)(3)(D) and 2(a)(3)(E) of this chapter.

SECTION 13. IC 6-1.1-37-9, AS AMENDED BY P.L.219-2007, SECTION 81, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 9. (a) This section applies when:

(1) an assessment is made or increased after the date or dates on which the taxes for the year for which the assessment is made were originally due;

(2) the assessment upon which a taxpayer has been paying taxes under IC 6-1.1-15-10(a)(1) or IC 6-1.1-15-10(a)(2) while a petition for review or a judicial proceeding has been pending is less than the assessment that results from the final determination of the petition for review or judicial proceeding; or

(3) the collection of certain ad valorem property taxes has been enjoined under IC 33-26-6-2, and under the final determination of the petition for judicial review the taxpayer is liable for at least part of those taxes.

(b) Except as provided in subsections (c) and (g), a taxpayer shall pay interest on the taxes the taxpayer is required to pay as a result of an action or a determination described in subsection (a) at the rate of ten percent (10%) per year from the original due date or dates for those taxes to:

(1) the date of payment; or

(2) the date on which penalties for the late payment of a tax installment may be charged under subsection (e) or (f);

whichever occurs first.

(c) Except as provided in subsection (g), a taxpayer shall pay interest on the taxes the taxpayer is ultimately required to pay in excess of the amount that the taxpayer is required to pay under IC 6-1.1-15-10(a)(1) while a petition for review or a judicial proceeding has been pending at the overpayment rate established under Section 6621(c)(1) of the Internal Revenue Code in effect on the original due date or dates for those taxes from the original due date or dates for those taxes to:

(1) the date of payment; or

(2) the date on which penalties for the late payment of a tax

installment may be charged under subsection (e) or (f);  
whichever occurs first.

(d) With respect to an action or determination described in subsection (a), the taxpayer shall pay the taxes resulting from that action or determination and the interest prescribed under subsection (b) or (c) on or before:

(1) the next May 10; or

(2) the next November 10;

whichever occurs first.

(e) A taxpayer shall, to the extent that the penalty is not waived under section **10.1**, 10.5, or 10.7 of this chapter, begin paying the penalty prescribed in section 10 of this chapter on the day after the date for payment prescribed in subsection (d) if:

(1) the taxpayer has not paid the amount of taxes resulting from the action or determination; and

(2) the taxpayer either:

(A) received notice of the taxes the taxpayer is required to pay as a result of the action or determination at least thirty (30) days before the date for payment; or

(B) voluntarily signed and filed an assessment return for the taxes.

(f) If subsection (e) does not apply, a taxpayer who has not paid the amount of taxes resulting from the action or determination shall, to the extent that the penalty is not waived under section **10.1**, 10.5, or 10.7 of this chapter, begin paying the penalty prescribed in section 10 of this chapter on:

(1) the next May 10 which follows the date for payment prescribed in subsection (d); or

(2) the next November 10 which follows the date for payment prescribed in subsection (d);

whichever occurs first.

(g) A taxpayer is not subject to the payment of interest on real property assessments under subsection (b) or (c) if:

(1) an assessment is made or increased after the date or dates on which the taxes for the year for which the assessment is made were due;

(2) the assessment or the assessment increase is made as the result of error or neglect by the assessor or by any other official involved with the assessment of property or the collection of property taxes; and

(3) the assessment:

(A) would have been made on the normal assessment date if the error or neglect had not occurred; or

(B) increase would have been included in the assessment on the normal annual assessment date if the error or neglect had not occurred.



SECTION 14. IC 6-1.1-37-10, AS AMENDED BY P.L.3-2008, SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 10. (a) Except as provided in sections **10.1**, 10.5, and 10.7 of this chapter, if an installment of property taxes is not completely paid on or before the due date, a penalty shall be added to the unpaid portion in the year of the initial delinquency. The penalty is equal to an amount determined as follows:

(1) If:

(A) an installment of real property taxes is completely paid on or before the date thirty (30) days after the due date; and

(B) the taxpayer is not liable for delinquent property taxes first due and payable in a previous installment for the same parcel; the amount of the penalty is equal to five percent (5%) of the amount of delinquent taxes.

(2) If:

(A) an installment of personal property taxes is completely paid on or before the date thirty (30) days after the due date; and

(B) the taxpayer is not liable for delinquent property taxes first due and payable in a previous installment for a personal property tax return for property in the same taxing district; the amount of the penalty is equal to five percent (5%) of the amount of delinquent taxes.

(3) If subdivision (1) or (2) does not apply, the amount of the penalty is equal to ten percent (10%) of the amount of delinquent taxes.

(b) With respect to property taxes due in two (2) equal installments under IC 6-1.1-22-9(a), on the day immediately following the due dates of the first and second installments in each year following the year of the initial delinquency, an additional penalty equal to ten percent (10%) of any taxes remaining unpaid shall be added. With respect to property taxes due in installments under IC 6-1.1-22-9.5, an additional penalty equal to ten percent (10%) of any taxes remaining unpaid shall be added on the day immediately following each date that succeeds the last installment due date by:

(1) six (6) months; or

(2) a multiple of six (6) months.

(c) The penalties under subsection (b) are imposed only on the principal amount of the delinquent taxes.

(d) If the department of local government finance determines that an emergency has occurred which precludes the mailing of the tax statement in any county at the time set forth in IC 6-1.1-22-8.1, the department shall establish by order a new date on which the installment of taxes in that county is due and no installment is delinquent if paid by the date so established.

(e) If any due date falls on a Saturday, a Sunday, a national legal holiday recognized by the federal government, or a statewide holiday, the act that must be performed by that date is timely if performed by the next succeeding day that is not a Saturday, a Sunday, or one (1) of those holidays.

(f) Subject to subsections (g) and (h), a payment to the county treasurer is considered to have been paid by the due date if the payment is:

(1) received on or before the due date by the county treasurer or a collecting agent appointed by the county treasurer;

(2) deposited in United States first class mail:

(A) properly addressed to the principal office of the county treasurer;

(B) with sufficient postage; and

(C) postmarked by the United States Postal Service as mailed on or before the due date;

(3) deposited with a nationally recognized express parcel carrier and is:

(A) properly addressed to the principal office of the county treasurer; and

(B) verified by the express parcel carrier as:

(i) paid in full for final delivery; and

(ii) received by the express parcel carrier on or before the due date;

(4) deposited to be mailed through United States registered mail, United States certified mail, or United States certificate of mailing:

(A) properly addressed to the principal office of the county treasurer;

(B) with sufficient postage; and

(C) with a date of registration, certification, or certificate, as evidenced by any record authenticated by the United States Postal Service, on or before the due date; or

(5) made by an electronic funds transfer and the taxpayer's bank account is charged on or before the due date.

For purposes of this subsection, "postmarked" does not mean the date printed by a postage meter that affixes postage to the envelope or package containing a payment.

(g) If a payment is mailed through the United States mail and is physically received after the due date without a legible correct postmark, the person who mailed the payment is considered to have made the payment on or before the due date if the person can show by reasonable evidence that the payment was deposited in the United States mail on or before the due date.

(h) If a payment is sent via the United States mail or a nationally recognized express parcel carrier but is not received by the designated

1 recipient, the person who sent the payment is considered to have made  
 2 the payment on or before the due date if the person:

3 (1) can show by reasonable evidence that the payment was  
 4 deposited in the United States mail, or with the express parcel  
 5 carrier, on or before the due date; and

6 (2) makes a duplicate payment within thirty (30) days after the  
 7 date the person is notified that the payment was not received.

8 SECTION 15. IC 6-1.1-37-10.1 IS ADDED TO THE INDIANA  
 9 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 10 [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: **Sec. 10.1. (a)**

11 **This section applies only to:**

12 **(1) property taxes first due and payable before January 1,**  
 13 **2009, with respect to a tract or an item of real property (other**  
 14 **than real property classified as industrial property under the**  
 15 **rules of the department of local government finance); and**

16 **(2) penalties added to a delinquent property tax installment**  
 17 **under section 10 of this chapter before January 1, 2009.**

18 **(b) The county treasurer shall waive all penalties added to a**  
 19 **delinquent property tax installment if all the delinquent taxes and**  
 20 **special assessments on the tract or item of real property are paid**  
 21 **before July 1, 2010."**

22 Renumber all SECTIONS consecutively.

(Reference is to ESB 285 as printed April 10, 2009.)

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Representative Smith V